held, in Gans Salvage Co. *v.* Byrnes, use of Higgins (Md.) 1 L. R. A. (N. S.) 272, to assume the risk of injury from falling walls, where the peril is open and obvious.

Master and Servant—Assumption of Risk.—A youth sixteen years old is held, in Mundhenke *v.* Oregon City Mfg. Co. (Or.) 1 L. R. A. (N. S.) 278, to have assumed the risk of injury plainly apparent from coming in contact with exposed gears, thc gh not expressly warned of the danger.

Master and Servant—Duty to Furnish Safe Appliances—Independent Contractor.—The right of an employee to hold his master liable for injuries caused by the latter's breach of duty to furnish an independent contractor with safe appliances for the performance of the work is denied in Miller *v.* Moran Bros.' Co. (Wash.) 1 L. R. A. (N. S.) 283.

Master and Servant—Habits and Character of Servant.—The diligence required of a master to learn the habits or characters of servants employed with due care is held, in Southern P. Co. *v.* Hetzer (C. C. A. 8th C.) 1 L. R. A. (N. S.) 288, to be reasonable diligence and care only.

Chattel Mortgages—After-Acquired Stock.—Taking possession of after-acquired stock in trade, under a chattle mortgage is held, in Burrill *v.* Whitcomb (Me.) 1 L. R. A. (N. S.) 451, to give the mortgagee precedence on a subsequent attachment.

Municipal Corporations—Legislative Authority.—The right of a municipality to legislate on subjects covered by statutes is denied in Thrower *v.* Atlanta (Ga.) 1 L. R. A. (N. S.) 382, in the absence of express legislative authority.

Negligence—Degree of Care—Owners of Places of Amusement.—The measure of duty of the owner of a place of amusement with respect to safety of places provided for the patrons is declared, in Williams *v.* Mineral City Park Asso. (Iowa) 1 L. R. A. (N. S.) 427, to be the exercise of reasonable care, and not the high degree of care analogous to that which a carrier is bound to exercise at common law.

Nuisances—Lawful Business.—A business which is authorized by law, and properly conducted at an authorized place, is held, in Atchison, T. & S. F. R. Co. *v.* Armstrong (Kan.) 1 L. R. A. (N. S.) 113, not to be a nuisance, on the theory that whatever is lawful cannot be wrongful.

Nuisances—Legislative Sanction as Defense.—The power of the legislature to authorize a railroad company to create a private nuisance

with immunity from liability to the owners of property damaged thereby is denied in Louisville & N. T. Co. *v.* Lellyett (Tenn.) 1 L. R. A. (N. S.) 49, and Gossett *v.* Southern R. Co. (Tenn.) 1 L. R. A. (N. S.) 97. The effect of legislative authority upon liability for a private nuisance is the subject of a note to these cases. See note to Townsend case, ante, p.

Physicians and Surgeons—Liability—Operation without Consent of Patient.—A surgeon who had undertaken to perform an operation upon a patient's right ear is held, in Mohr *v.* Williams (Minn.) 1 L. R. A. (N. S.) 439, to be liable for injuries resulting from the performance of an operation on her left ear, which he deemed to be in greater need of an operation than the right ear, unless he had her express or implied consent; and whether she had impliedly consented was a question for the jury. A note to this case discusses the question of liability of physical performing surgical operation without consent.

Agency—Undisclosed Principal—Contract in Name of Agent.—The right of an agent, in the absence of objection by the principal, to enforce a contract made in his own name for an undisclosed principal, is upheld, in Shelby *v.* Burrow (Ark.) 1 L. R. A. (N. S.) 303, notwithstanding that the signature to the contract was actually affixed by a subagent.

General Assembly—Right to Appropriate Money.—The validity of legislative appropriation of money to pay the expense of attendance by the whole body of the Pennsylvania legislature on an excursion to New York to attend the dedication of the Grant monument is upheld in Russ *v.* Com. (Pa.) 1 L. R. A. (N. S.) 409.

Railroad Crossings — Signals — Overhead Bridges.—An overhead bridge crossing of a highway is held, in Johnson *v.* Southern P. R. Co. (Cal.) 1 L. R. A. (N. S.) 307, to be within a statute requiring signals to be given when a train approaches a place where the railroad crosses a highway. But the Virginia supreme court decided the contrary in a recent case. Norfolk, etc., R. Co. *v.* Scruggs, 52 S. E. 834.

Removal of Causes.—The state, and not the Federal, court, is held, in Illinois C. R. Co. *v.* Houchins (Ky.) 1 L. R. A. (N. S.) 375, to be the proper tribunal to determine the question of the right to remove to the latter an action begun in the former, against a non-resident railroad company and its resident employee jointly.

A nonresident joined as defendant in an action to recover damages for negligence is held, in Illinois C. R. Co. *v.* Coley (Ky.) 1 L. R. A. (N. S.) 370, to have no right to a removal of the case to the Federal court by putting in issue the fact of negligence on the part of his codefendant.